

Appl. No. : 16,053,014
Filed : October 16, 2001

REMARKS

Objection to the Drawings

The Examiner has objected to the drawings because they fail to show where the rotation of the longer member rotates as claimed. Applicants respectfully traverse the objection. The rotation of the longer member is shown in Figures 2 and 3. Accordingly, Applicants respectfully request withdrawal of the objection.

Rejections Under 35 U.S.C. § 112

The Examiner has rejected Claims 30, 32 and 33 under 35 U.S.C. § 112 first paragraph, stating that the specification does not provide enablement for rotation of the longer member with respect to the shorter member.

Applicants respectfully traverse the rejection. The rotation of the longer member with respect to the shorter member is shown in Figures 2 and 3, as discussed above, and described in the specification at page 4, lines 16-19; page 5, line 27 – page 7, line 10; and page 9, line 14 – page 10, line 6.

Accordingly, Applicants respectfully submit Claims 30, 32 and 33 are in condition for allowance.

Rejections Under 35 U.S.C. § 102 and 103

The Examiner has rejected Claims 26-29, 31, 34, 35, 37-39 and 41 under 35 U.S.C. § 102(b) as anticipated by Perez, Jr. The Examiner has rejected Claims 30, 32 and 33 under 35 U.S.C. § 103(a) as unpatentable over Perez, Jr. The Examiner has rejected Claims 36 and 40 under 35 U.S.C. § 103(a) as unpatentable over Perez, Jr. in view of Smith.

Applicant respectfully submits that neither Perez, Jr. nor Perez, Jr. in view of Smith teach or suggest the unique combination of features recited in Applicant's Claims 26 and 38. Applicant's Claims 26 and 38 recites, among other limitations, a dilator wherein "the shorter dilator member is positioned between the longer member and handle", as presently claimed. Applicant submits that the cited art does not teach a shorter member positioned between a longer member and handle.

Appl. No. : 16,553,014
Filed : October 16, 2001

Accordingly, Applicant maintains Claim 26 and 38 are patentable over Perez, Jr. and Smith. As Claims 27-37 and 39-41 are dependent on independent Claims 26 and 38, Claims 27-37 and 39-41 are patentable for at least these reasons.

CONCLUSION

The applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of this response, reconsideration and withdrawal of the outstanding rejections is respectfully requested.

If the Examiner has any questions which may be answered by telephone, he is invited to call the undersigned directly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 24, 2003

By: 

Jennifer Hayes
Registration No. 50,845
Agent of Record
Customer No. 20,995
(619) 235-8550

S:\DOCS\JOH\JOH-3448.DOC
091203